

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS

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CHARLES O. EUBANKS,  
Petitioner,

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Case No. 07-CR-50058-1

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v.

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**FILED**

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SEP 02 2008

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MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

UNITED STATES OF AMERICA,  
Respondent.

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REQUEST FOR JUDICIAL NOTICE  
PURSUANT TO FED. R. EVID. RULE 201(d)  
AND TITLE 28 U.S.C.S. § 1331

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NOW COMES, CHARLES O. EUBANKS, Petitioner in aid of the Constitution in the above entitled action, moves this Honorable Court to reconsider it's decision in Court Order dated 8/13/08, where Petitioners Motion for Appointment of an Independent Investigator is stricken because Petitioner is represented by counsel.

Petitioner now request a Judicial Notice of facts pursuant to Fed. R. Evid. Rule 201(d) and a Federal Question pursuant to Title 28 U.S.C.S. § 1331, where Petitioner moves this Court to administer an Independent Investigation regarding state citizens (Charles O. Eubanks) being transferred over to the Federal Government for

federal prosecution and imprisonment. Petitioner is asking the Court to reconsider it's Order for the following reasons;

- 1) Petitioner has filed a formal complaint against counsel of record dated August 10, 2008.
- 2) The formal complaint filed against counsel of record presents a conflict of interest in case number 07-CR-50058-1
- 3) Petitioner has filed a Motion to Withdraw counsel of record with the District Court.
- 4) Petitioner prays that the District Court may take Judicial Notice and action upon the merits of Motion for an independent investigator in the interest of justice.

In view of these considerations, the regulation of Judicial Notice of facts by the present rule extends only to adjudicative facts. When a Court or Agency find facts concerning the immediate parties (Charles O. Eubanks)"being singled out for prosecution among others similarly situated and...the decision to prosecute was improperly motivated." United States v. Mangieri, 694 F. 2d 1270, 1273 (D.C. Cir. 1982). Improper motivation is a selection deliberately based on "an unjustifiable standard, such as race, religion or other arbitrary classification." United States v. Armstrong, 517 U.S. 456, 464 (1996) (quoting Oyler v. Boyles, 368 U.S. 456 (1962)). Federov v. United States, 600 A. 2d 370 (D.C. 1991)(en banc), discusses in detail the requirements for showing selective prosecution, including the showing necessary to obtain discovery and an evidentiary hearing--who did what, where, when, how, and with what motive or intent--the Court or Agency is performing an adjudicative function, and the facts are conveniently called adjudicative facts.

The Constitution of the United States is the Supreme Law of

the Land and Binds every Forum whether it derives its authority from a State or from the United States. Cook v. Moffat & Curtis, 46 U.S. 295, 12 L.Ed. 159 (1847); Dodge v. Woolsey, 59 U.S. 331, L.Ed. 401 (1855); Ex parte Siebold, 100 U.S. 371, 25 L.Ed. 717 (1879).

The District Court cannot use the excuse of counsel's representation to negate Petitioners Constitutional Rights and assertions of Constitutional Rights, because the Court has a duty to protect Petitioners Constitutional Rights pursuant to the Bill of Rights and the 5th Amendment of the United States Constitution.

WHEREFORE, for the reasons stated above Petitioner moves this Honorable Court to reconsider Petitioners Motion for Independent investigator and/or ask that this Court act on it's own volition to issue a Order where the facts will aid the Court to adjudicate the facts in the instant cause and in the interest of justice.

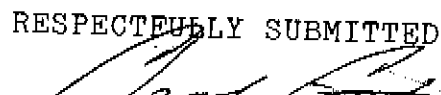
RESPECTFULLY SUBMITTED

  
~~CHARLES O. EUBANKS~~ Petitioner

CERTIFICATE OF SERVICE

I, CHARLES O. EUBANKS, hereby certify under the Penalty of Perjury that the aforementioned Motion (Request for Judicial Notice and a Federal Question) is true and correct to the best of my knowledge. See Title 28 U.S.C. § 1746 and Title 18 U.S.C. § 1621, and that I, CHARLES O. EUBANKS, caused all copie(s) to be sent to Clerk Office for the United States District Court for the Northern District of Illinois via United States Postal Service prepaid this 28 day of August, 2008.

RESPECTFULLY SUBMITTED

  
~~CHARLES O. EUBANKS~~ Petitioner